

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

SECOND WORKSESSION ADDENDUM MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, January 23, 2002, 9:00 A.M.

ACTION CALENDAR:

1. **Order Extending Time for the Board's Written Opinion** for 30-days is required in the following case:

(a) **CBA-1587-A, Petition of Georgetown Park Associates LP** (medical clinic). Hearing held 12/19/01.

Action: Granted Order Extending Time, (DLB/LLM, 5-0).

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz

Staff

Sherry Glazer, Assistant County Attorney
Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist

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1. **CBA-1202-A, Petition of Bar-T Inc./Bar-T-Ranch** (child day care facility). Memorandum to the Board from Stanley N. Garber, Investigator, reporting on the inspection of the special exception property.

Action: Granted administrative modification request, (AMC/LLM, 5-0).

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WORKSESSION MINUTES

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Wednesday, January 23, 2002, 9:00 A.M.

ACTION CALENDAR:

1. **Minutes**, January 9 and 16, 2002 Worksession.

Action: Approved, (DLB/LLM, 5-0).

2. **A-5678, Appeal of Luxmanor Citizen's Association, Inc. and Jerry Black, Mark M. Spradley and Tim D. Andreadis and, A-5679, Appeal of Luxmanor Citizen's Association, Inc. and Jerry Black, Mark M. Spradley and Tim D. Andreadis** (Department of Permitting Services – Issuance of Building Permit No. 257394 and Ruling Letter dated 8/31/01). Letters to the Board from William J. Chen, Jr., Esquire, requesting a subpoena for Malcolm F. Spicer, Jr., Esquire and a subpoena for Robert E. Reiver.

Action: (1) Granted the subpoena for Steven J. Karr; (2) denied without prejudice the subpoena for Malcolm F. Spicer, Jr., Esquire.

Also included is a Motion to Quash Subpoena and Production of Documents from Robert E. Reiver.

Action: Denied the motion to Quash Subpoena and Production of Documents, (DLB/LLM, 5-0).

3. **CBA-1812, Petition of Charles W. and Carolyn W. Halleck** (private riding stable). Letter to the Board from the Antonia M. Santos, current property owner, requesting an administrative modification.

Action: Granted administrative modification request, (DLB/AMC, 5-0).

4. **CBA-3014, Petition of Steuart Petroleum Company** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, Department of Permitting Services (DPS), notifying the Board of an active violation and requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (DLB/AIF, 5-0).

5. **S-476, Petition of Beverly Z. Beckley** (home occupation). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a determination of whether or not the special exception is in compliance.

Action: (1) Record reflects that special exception is a no impact home occupation; (2) the Department of Housing and Community Affairs (DHCA) to determine if a license will be required for the special exception use, consensus.

6. **S-583, Petition of William T. and Mary N. Furman** (private riding stable). Letter to the Board from Shawn Lofstrom, current occupant, notifying the Board that the special exception has been abandoned and to revoke the special exception.

Action: Revoked special exception as abandoned, (AMC/AIF, 5-0).

7. **S-707, Petition of Golden Arch Realty Corporation** (drive-in restaurant). Letter to the Board from Joseph E. Montoya, Owner/Operator, requesting an administrative modification.

Action: Granted transfer per confirmation by the petitioner, (LLM/DLB, 5-0).

8. **S-739, Petition of Shemin Nurseries, Inc.** (horticultural nursery and commercial greenhouse). Letter to Board from Robert H. Metz, Esquire, requesting an expedited hearing.

Action: (1) Granted expedited hearing request; (2) hearing scheduled for 2/13/02, (AMC/AIF, 5-0).

9. **S-1430, Petition of Lori J. and Jack R. Hall** (accessory apartment). Letter to the Board from Maureen Roden, current property owner, requesting a transfer of the special exception.

Action: Granted transfer request, (LLM/AMC, 5-0).

10. **S-1466-B, Petition of Michael S. and Regina A. Mason** (retail horticultural nursery). Letter to the Board from Cathy G. Borten, Esquire, withdrawing the special exception modification request.

Action: (1) Re-opened the record to accept Ms. Borten's letter; (2) dismissed special exception as withdrawn, (AIF/DLB, 5-0).

11. **S-1772, Petition of Gregory Tassey** (private riding stable). Letter to the Board from Gregory Tassey, current property owner, requesting that the special exception be abandoned.

Action: Revoked special exception as abandoned, (AMC/LLM, 5-0).

12. **S-1836-B, Petition of Haeng K. Choi** (private educational institution). Letter to the Board from Sheldon P. Schuman, Esquire, requesting a consolidation of the special exception modification and variance hearings and a waiver of the lesser filing fee.

Action: (1) Granted the request for the waiver of the lesser filing fee; (2) variance request to be heard before the special exception modification request, (AIF/AMC, 5-0).

13. **S-1930, Petition of Exxon Corporation** (automobile filling station). Letter to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board of an active violation and requesting a show cause hearing.

Action: Schedule Show Cause Hearing, (LLM/AMC, 5-0).

14. **S-1962, Petition of Harvey Asher Himberg & Margaret Jamie Burnett** (accessory apartment). Letter to the Board from George Grau and Krista Ellis, current property owners, requesting a transfer of the special exception.

Action: Granted transfer of the special exception, (DLB/LLM, 5-0).

15. **S-1968, Petition of Eva Kalusin** (home occupation). Letter to the Board from Loryn A. Charity, notifying the Board that the special exception has been abandoned and requesting that the special exception be revoked.

Action: No action required by the Board.

16. **S-2453, Petition of Academy Child Development, Inc.** (child day care facility). Letter to the Board from John J. Delaney, Esquire, and Mark M. Viani, Esquire, requesting that the Board remove Condition No. 3 of its Opinion.

Action: Granted request to remove Condition No. 3 of the Board's Opinion, (DLB/AMC, 4-0/AIF/abstained).

DECISION:

17. **A-5326, Appeal of Freestate Aviation and Aviation Facilities Corporation** (Department of Housing and Community Affairs/Department of Permitting Services – Notices of Violation). Memorandum to the Board from the Associate County Attorney.

Action: Denied administrative appeal, (LLM/AIF, 5-0).

18. **A-5702, Petition of Morris Bates** (one-story addition). Hearing held 1/16/02.

Action: Granted variance request, (LLM/AMC, 5-0).

19. **S-657-B, Petition of Sunoco, Inc.** (automobile filling station). Hearing Examiner's Report and Recommendation.

Action: Accepted the Hearing Examiner's Report and Recommendation, (AIF/LLM, 5-0).

20. **S-2473, Petition of Adnan Haider** (accessory apartment). Memorandum to the Board from Robert Dejter, Housing Code Field Supervisor, Department of Housing and Community Affairs.

Action: Board to request inspection of the special exception property by DPS, (LLM/AIF, 5-0).

21. **S-2479, Petition of Carol Mullinix, American Tower Corporation and AT&T Wireless** (public utility buildings, public utility Structures and telecommunications facilities). Hearing Examiner's Report and Recommendation.

Action: Accepted the Hearing Examiner's Report and Recommendation, (DLB/LLM, 5-0).

PENDING ITEMS:

22. **CBA-1202-A, Petition of Bar-T Inc./Bar-T-Ranch** (child day care facility). Letter to the Board from Emily J. Vaias, Esquire, requesting an administrative modification. Board to request DPS inspection of the special exception.

23. **CBA-1692 [S-719, S-720, S-721], Petition of Karl W. Corby, Jr., et al** (medical practitioner's office). Letter to the Board from Stanley N. Garber, Zoning Investigator, DPS, notifying the Board of the special exceptions' outstanding Notices of Violation. Item deferred to a future worksession pending clarification from DPS.

PENDING ITEMS (continued):

24. **CBA-2640, Petition of The National Capital Area Council – Boy Scouts of America** (eleemosynary and philanthropic institution). Letter to the Board from Patricia A. Harris, Esquire, requesting an administrative modification. Board requested a review and recommendation from M-NCPPC.
25. **S-1547, Petition of Precision Tune** (automobile tune-up and service shop). Letter to the Board from Sa Kwon, owner, requesting a transfer of the special exception. Board granted the transfer of the special exception and requested DPS to inspect the special exception for compliance with landscape and lighting plan.
26. **S-2435, Petition of Saiful and Jannatul B. Islam** (accessory apartment). Order from the Circuit Court reversing the Board's Opinion. Board requested DHCA inspection of the special exception and the item will return to a future worksession to determine if a public hearing is required.

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